

MAR 05 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BOYD LIVINGSTON,

Defendant - Appellant.

No. 08-10257

D.C. No. 2:91-cr-00015-PMP

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted February 18, 2009^{**}

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Boyd Livingston appeals from the sentence imposed following revocation of supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Livingston contends that the district court abused its discretion by imposing a renewed term of supervised release because he has neither the inclination nor the aptitude to succeed under supervision. We conclude that the 49-month term of supervised release is reasonable in light of, among other things, the need to protect the public. *See United States v. Hurt*, 345 F.3d 1033, 1035-36 (9th Cir. 2003); *see also United States v. Cope*, 527 F.3d 944, 952 (9th Cir. 2008).

AFFIRMED.